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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,527	06/15/2001	Aaron Standridge	9623V-021110	9934
20350	7590	10/24/2003	EXAMINER TRUONG, LECHI	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			ART UNIT 2126	PAPER NUMBER
DATE MAILED: 10/24/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/882,527	STANDRIDGE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	LeChi Truong	2126	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 June 2001.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All   b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

## **DETAILED ACTION**

### **Double Patenting**

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1, 6, 9, 10, 17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1, 6, 8, 12 of U.S. Patent No 6, 539,441 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other.

**As to claim 1**, Dieckman teaches multiple client application programs (multiple client application program, col 5, ln 55-67), simultaneously (simultaneously, col 5, ln 55-67), a single

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input device (a single input device, col 5, ln 55-67), a process (a process/ a process server, col 5, ln 55-67), subsequent application programs call (a first application calling/ a second application program calling, col 5, ln 55- 67 to col 6,ln 1-14), communication (communication, col 5, ln 55-67).

**As to claim 6,** Dieckman teaches multiple client application program (multiple client application program, col 5, ln 55-67), simultaneously (simultaneously, col 5, ln 55-67), communication (communication, col 5, ln 55-67), an input device (input device, col 5, ln 55-67), a first application program calling (a first application program calling, col 5, ln 55-67), a process (a process, col 5, ln 55-67), application programming interface (Application programming interface, col 5, ln 55-67), network protocol( network protocol, col 5, ln 55-67), a process sever( a process sever, col 5, ln 55-67), a single input device instance( a single input device instance, col 5, ln 55-67), a first input device control instance( a single input device control instance, col 6, ln 1-14), an interface( an interface, col 6, ln 1-14), a second input device( a second input device, col 6, ln 1-14), a call( a call, col 1-67), a second application program calling( a second application program calling, col 6, n 1-14), a second connection( a second connection, col 6, ln 1-14).

**As to claim 9,** refer to the rejection of claim 6. Further, Deickman teaches DCOM( DCOM, col 6, ln 40-67).

**As to claim 10,** Deickman teaches a compute useable medium (a computer useable medium, col 8, ln 1-35), computer readable code (computer readable code, col 8, ln 1-35), an input device (an input device, col 5, ln 53-67, col 8, ln 1-35), multiple application programs (multiple application programs, col 5, ln 53-67, col 8, ln 1-35), an input device drive file (video

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driver information, col 6, ln 25-50), executable (executable, col 6, ln 40-55), a client (client, col 6,ln 40-67), server (server, col 6, ln 40-67).

**As to the method of claim 17, see the rejection of claim 1.**

3.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LeChi Truong whose telephone number is (703) 305 5312. The examiner can normally be reached on 8 - 5.

Fax phone: AFTER\_FINAL faxes must be signed and sent to: (703) 746-2738, OFFICIAL faxes must be signed and send to: (703) 746-7239, NON OFFICIAL faxes should not be signed, please send to: (703) 746-7240

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305 9000.

LeChi Truong  
October 10, 2003

  
JOHN FOLLANSBEE  
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TECHNOLOGY CENTER 2100